



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 29, 1997

Mr. Charles Breaux, Jr.  
Administrative Assistant  
to the Sheriff's Department  
Jefferson County, Texas  
P.O. Box 2950  
Beaumont, Texas 77704

OR97-2833

Dear Mr. Breaux:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111150.

The Jefferson County Sheriff's Department (the "sheriff") received a request for information relating to a speeding ticket that was issued to the requestor. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.104, 552.107, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of documents.<sup>1</sup>

Section 552.103(a) of the Government Code reads as follows:

(a) Information is excepted from [required public disclosure] if it is information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

subdivision, as a consequence of the person's office or employment, is or may be a party; and,

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

The test for establishing that section 552.103 applies is a two-prong showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.). A governmental body has the burden of providing relevant facts and documents to show the applicability of an exception in a particular situation. You inform us that prosecution of the requestor's criminal charge is pending in justice of the peace court. After reviewing the submitted documents, we find that litigation is pending. We also conclude that the documents you have submitted relate to the litigation, and may be withheld.

Generally, once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). You have included a copy of the requestor's citation. If this, or any other information, has been obtained from or provided to the opposing party in the pending litigation, it is not excepted from disclosure under section 552.103(a), and it must be disclosed. We note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 111150

Enclosures: Submitted documents

cc: Mr. Bert Morgan  
620 W. Elm# 103  
Temple, Texas 76501  
(w/o enclosures)